

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
Division of Housing Policy Development







1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177
FAX (916) 327-2643



Senate and Assembly Joint Housing Committee Hearing
on the
Housing Element Working Group
Capitol, Room 112
January 26, 2004

Housing Element Working Group

Background:

-  Previous reform efforts polarized Stakeholders.
-  Start of 2002/03 Session saw introduction of over 8 bills addressing housing element issues.
-  HCD proposed convening a working group to develop consensus in key reform areas.
-  Legislative leaders/authors agreed to a housing element bill moratorium while Housing Element Working Group sought consensus.
-  HCD worked with stakeholder groups to identify membership of working group. Each major stakeholder group selected one or two representatives for the group. Unlike previous reform efforts, membership included practitioners (as opposed to lobbyists).
-  The Working Group convened for first meeting in June 2003 and has met approximately every three weeks since then.


Priority Reform Areas


The Housing Element Working Group identified the following priority areas for developing consensus:


1. Regional Housing Needs Assessment Process (RHNA)
2. Identification of Adequate sites/land
3. Increasing Housing Development Certainty
4. Performance-Based Certification
5. Enforcement
6. HCD Review Process

Status of Efforts:

Overall:

 The Working Group agreed to develop legislative proposals for recommendation to the Legislature on RHNA, Adequate Sites, and Development Certainty by the end of December 2003. **To date, the Working Group has conceptual agreement on these areas and is in the process of finalizing proposed language.**

 HCD agreed to develop Proposals to streamline housing element review process by December 2003. **To date, HCD presented ideas to the group on a variety of internal administrative reforms, solicited feedback, and finalized initial review improvements. The Working Group agreed to have continuing discussions regarding citizen participation and conditional compliance processes.**

 The Working Group agreed to work in January and February 2004 to develop consensus on performance-based certification and enforcement. **The Group is meeting on these subjects following today's hearing.**

Regional Housing Need Assessment (RHNA) Reform Proposal

The RHNA subgroup has focused on:

- ◆ the COG allocation methodology and process
- ◆ clarifying procedural timelines, including those for subregions; and
- ◆ public participation

Particular focus has been given to making the allocation process more transparent, specifying the process and factors for input into the methodology development from cities and counties; providing greater clarity and certainty to local government; State support for regional agencies and access to the RHNA process for all stakeholders.

Recommended changes include:

- improve the process to provide more detail about the RHNA allocation process including how COGs collect data from cities and counties; what data is collected; the factors that should be used to develop the allocation methodology; and the timing of the process,
- modify the public process for RHNA methodology development and distribution, to allow greater access by local governments, the COGs and local stakeholders.
- create clarity throughout the RHNA process by identifying unifying themes and principles that reconcile state government policy with local goals, and promote consistency between COG allocation plan and state public policy goals.

The group has conceptual agreement and is developing modifications to the HCD-COG determination process, including consideration of regional forecasts, and the potential for a longer planning/allocation period.

Identification of Adequate Sites Reform Proposal

Each housing element must include an inventory of sites suitable for residential development and identify how these sites will accommodate a local jurisdiction's fair share of the regional housing need. General consensus has been developed to clarify the relationship and interaction between the land inventory; the requirement to identify adequate sites and, the program that must be developed if adequate sites cannot be identified. Reforms will:

- ◆ Define "sites suitable for residential development."
- ◆ Provide standards for the land inventory.
- ◆ Establish benchmark site capacity and density criteria for the inventory to determine adequacy.
- ◆ Clarify relationship between land inventory and adequate sites.
- ◆ Clarify requirement to include a program to provide adequate sites during the housing element planning period if the inventory does not identify adequate sites.
- ◆ Provides greater flexibility to credit rehabilitation of existing units toward adequate site requirement.

Development Certainty Reform Proposal

The Housing Element law envisions that housing development should be a "permitted use" on appropriately zoned multifamily parcels within localities which are otherwise unable to provide a land inventory with sufficient sites to meet their Regional Housing Need Assessment at the time of adoption of the housing element. However, greater clarity is needed to ensure effective implementation.

Areas of General Consensus:

1. Provide a locality's housing element program shall allow project densities that will help ensure the feasibility of new housing developments.
2. Clarify that a "by right" development consistent with existing zoning would not require conditional use permits or other discretionary approvals, though general design review and consistency with objective design standards could be required.
3. Strengthen provisions of anti-NIMBY law including clarifying that if a locality includes a site for affordable housing use in its housing element site inventory, it cannot deny an affordable housing development on that site on the basis that the development is not consistent with current zoning or the general plan.
4. Ensure that parking requirements for developments qualifying for a density bonus meet the needs of localities and do not jeopardize the development of otherwise appropriate housing on these sites.

HCD Review Process Reform Proposals

Review Improvements:

- ◆ Develop model elements and templates
- ◆ Develop best-practices resource materials
- ◆ Establish system for lead regional representatives to facilitate greater understanding of specific issues and challenges of various regions and promote greater consistency in review process and provision of assistance
- ◆ Conduct internal quarterly consistency exercise for review staff
- ◆ Developing a staff peer review process within HCD that would support this consistency on an ongoing basis
- ◆ Evaluate strengthening current guidelines versus preparing formal regulations to guide review process
- ◆ Consult with stakeholders to identify gaps in current technical assistance resources. Expand and improve technical assistance as resources allow.

The Working Group has agreed to continue working on:

- ◆ Improving Citizen Participation Process
- ◆ Conditional Compliance

Performance-Based Certification:

Reform effort involves reaching consensus on system to provide an alternative certification process that would continue to require HCD review of a local jurisdiction's housing element but would allow local governments to self-certify their housing elements if specified performance standards have been met. There is a linkage with efforts to identify enforcement mechanism.

The Housing Element Working Group represents the first time all major stakeholders have come together to explore options for a "performance-based certification" process. While significant barriers to consensus remain, each stakeholder group has committed to a good faith effort to find common ground.

Reform Areas Include:

- ◆ What are performance standards? Housing Production alone or production and planning measure such as reducing regulatory barriers, minimum densities, etc. Should standard include affordable housing production and overall housing production?
- ◆ How to set standard. Should it be percentage of RHNA, total production, some other measure? What should percentage be?
- ◆ HCD role and local government accountability
- ◆ Should there be other forms of incentives for performance?
- ◆ Question about whether performance-based certified elements should carry the same presumption of validity as those certified by HCD

Housing Element Enforcement:

Each stakeholder group has committed to find common ground on a system that penalizes local jurisdictions that do not make a good faith effort to comply with housing element law and that allows more effective judicial review.

Reform Areas Include:

- ◆ What are appropriate penalties?
- ◆ Who should be penalized?
- ◆ What are appropriate incentives?
- ◆ When and under what circumstances would penalties apply?
- ◆ When and under what circumstances would incentives be used?
- ◆ What is/are the appropriate enforcement mechanisms?
- ◆ What is/are legal standards of review or challenge?
- ◆ Issue about presumption of validity
- ◆ How can a local jurisdiction's decision be challenged more efficiently?

Housing Element Working Group Membership

League of California Cities

Mayor Anna Caballero, Salinas
Betsy Strauss, City Attorney, Rohnert Park

California State Association of Counties

Pete Parkinson, Planning Director, County of Sonoma
Eric Jay Toll, Planning Director, County of Mariposa

California Chapter American Planning Association

Vince Bertoni, Planning Manager, City of Santa Clarita
Janet Ruggiero, Community Development Director, Citrus Heights

Councils of Governments

Alex Amoroso, Principal Planner, Association of Bay Area Governments (ABAG)
Susan Baldwin, Senior Regional Planner, San Diego Association of Governments (SANDAG)
Lynn Harris, Manager of Community Development, Southern California Association of Governments (SCAG) and Jacob Lieb, Senior Regional Planner

Non-Profit Housing Developers

Tom Collishaw, Deputy Director, Self-Help Enterprises
Dara Kovel, Regional Director, Mercy Housing California
Sam Mistrano, Deputy Director, Southern California Association of NonProfit Housing (SCANPH)
Doug Shoemaker, Policy & Program Director, NonProfit Housing Association of Northern California (NPH)

Housing Advocates

Ilene Jacobs, Director of Litigation/Advocacy, California Rural Legal Assistance (CRLA)
Mike Rawson, Director, California Affordable Housing Law Project

For-Profit Builders

Bruce Houdesheldt, California Building Industry Association

Business Group

Shiloh Ballard, Associate Director of Transportation and Land Use, Silicon Valley Manufacturing Group

California Department of Housing and Community Development (HCD)

Cathy Creswell, Deputy Director, Division of Housing Policy Development
Linda Wheaton, Assistant Deputy Director, Division of Housing Policy Development
Mark Lovington, Senior Staff Counsel, Legal Affairs Division

Facilitator: Maureen Kennedy (through December)

Observers: Mark Stivers, Senate Housing Committee
Hugh Bowers, Assembly Housing Committee